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DOCKET NO. D-1994-059 CP-2

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

Town of Fallsburg

Wastewater Treatment Plant

Town of Fallsburg, Sullivan County, New York

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by Camp Dresser & McKee (CDM) on behalf of the Town of Fallsburg on November 6, 2009 (Application), for review of an expansion to the existing South Fallsburg (WHO) wastewater treatment plant (WWTP). State Pollutant Discharge Elimination System (SPDES) Permit No. NY0024520 for this project was approved by the New York State Department of Environmental Conservation (NYSDEC) on November 1, 2008 and modified August 1, 2010.

The Application was reviewed for continuation of the project in the Comprehensive Plan and approval under Section 3.8 of the *Delaware River Basin Compact*. The Sullivan County Planning Board has been notified of pending action. A public hearing on this project was held by the DRBC on March 5, 2013.

A. DESCRIPTION

1. Purpose. The purpose of this docket is to renew approval of the existing 3.26 million gallons per day (mgd) WHO WWTP and its related discharge. The docket holder's Application requested approval to expand the WWTP to 10.7 mgd, but due to changes in the region the expansion plans never came to fruition and therefore this docket requires the docket holder to re-apply to the Commission in the future if substantial alterations or additions are proposed as defined in Section 3.10.3A.2.a.16) of the Commission's *Water Quality Regulations (WQR)* prior to final design (See DECISION Condition II.v.).

2. **Location.** The existing WWTP will continue to discharge treated effluent to the Neversink River at River Mile 253.64 – 32.4 (Delaware River – Neversink River) via Outfall No. 001, in the drainage area to the Middle Delaware Special Protection Waters (SPW) area. The WWTP and its related discharge are located in the Town of Fallsburg, Sullivan County, New York as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	41° 42' 59"	74° 36' 51"

3. **Area Served.** The existing WWTP will continue to serve the towns of Fallsburg, South Fallsburg, Woodbourne, Hurleyville, and Oldfalls, all of which are located in Sullivan County, New York. For the purpose of defining the Area Served, the docket holder's Application is incorporated herein by reference, to the extent consistent with all other conditions contained in the DECISION Section of this docket.

4. **Physical Features.**

a. **Design Criteria.** The docket holder operates the existing 3.26 mgd WHO WWTP.

b. **Facilities.** The existing WHO WWTP consists of two (2) comminutors, three (3) grit removal chambers, five (5) primary settling tanks, three (3) trickling filters, two (2) rotating biological contactors (RBCs), four (4) final settling tanks, two (2) sludge digestion tanks, sludge drying beds, a chlorine contact tank, and a dechlorination unit.

The docket holder's wastewater treatment facility discharges to waters classified as SPW and is required to have available emergency power. The existing WWTP has a generator installed capable of providing emergency power. (SPW)

The docket holder's wastewater treatment facility is not staffed 24 hours per day, and shall have a remote alarm system that continuously monitors plant operations. The docket holder is required as part of the continued discharge to install remote alarm systems within 6 months of approval of this docket (See DECISION Condition II.o.). (SPW)

The docket holder's existing wastewater treatment facility has not prepared and implemented an emergency management plan (EMP) in accordance with Commission requirements. The docket holder is required as part of this docket approval to prepare and implement an EMP within 6 months of approval of this docket (See DECISION Condition II.o.). (SPW)

The project facilities aren't located in the 100-year floodplain.

Wasted sludge will continue to be hauled off-site by a licensed hauler for disposal at a (State-approved) facility.

c. **Water withdrawals.** The potable water supply in the project service area is supplied by the docket holder's water supply system, which was approved on August 7, 1996 via Docket No. D-90-105 CP RENEWAL.

d. **SPDES Permit / DRBC Docket.** SPDES Permit No. NY0024520 was approved by the NYSDEC on November 1, 2008 (amended August 1, 2010) and includes final effluent limitations for the project discharge of 3.26 mgd to surface waters classified by the NYSDEC as a Class B(T) stream, which is best used for swimming, recreation, and trout fishing. The following average monthly effluent limits are among those listed in the SPDES Permit and meet or are more stringent than the effluent requirements of the DRBC.

EFFLUENT TABLE A-1: DRBC Parameters Included in SPDES Permit

OUTFALL 001 (WWTP)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by SPDES Permit
Total Suspended Solids	25 mg/l 693 lbs/day 85% minimum removal	As required by SPDES Permit
Dissolved Oxygen	4.0 mg/l (minimum at all times)	As required by SPDES Permit
BOD (5-Day at 20° C)	25 mg/l 693 lbs/day 85% minimum removal*	As required by SPDES Permit
Ammonia Nitrogen	Monitor & Report ***	As required by SPDES Permit
Fecal Coliform (5-1 to 10-31)	200 colonies per 100 ml as a geo. avg.	As required by SPDES Permit
Phosphorus	Monitor & Report	As required by SPDES Permit
Total Dissolved Solids*	Monitor & Report **	As required by SPDES Permit
Total Kjeldahl Nitrogen (6-1 to 10-31) (11-1 to 5-31)	17 mg/l Monitor & Report	As required by SPDES Permit
Nitrate + Nitrite as N*	Monitor & Report	As required by SPDES Permit

* DRBC Requirement

** See DECISION Condition II.s.

*** The NYSDEC has required the docket holder to meet an effluent limitation of 4.0 mg/l (April 8 – October 31) or 6.9 mg/l (November 1 – April 7) for Ammonia Nitrogen during certain drought conditions

The DRBC requested that certain parameters be added to the SPDES Permit prior to its issuance in 2010 to gain baseline data for parameters specific to SPW as well as the Commission's basin-wide total dissolved solids (TDS) requirement. The NYSDEC did include these parameters in the SPDES Permit. Additionally, the NYSDEC required toxicity monitoring for the WWTP. The DRBC does not require toxicity monitoring outside of the Delaware River Water Quality Zones 2 through 6.

e. **Cost.** There are no construction costs associated with this docket renewal.

f. **Relationship to the Comprehensive Plan.** The 0.5 mgd WHO WWTP was included in the Comprehensive Plan upon approval of Docket No. D-67-69 CP on June 23, 1967. Docket No. D-67-69 CP also approved the expansion to 1.2 mgd. Docket No. D-85-76 CP approved the expansion to 2.77 mgd on November 25, 1986. Docket No. D-94-59 CP approved the expansion to 3.26 mgd on December 7, 1994. Issuance of this docket shall continue approval of the 3.26 mgd WHO WWTP in the Comprehensive Plan (See DECISION Condition I.c.).

B. **FINDINGS**

The purpose of this docket is to renew approval of the existing 3.26 mgd WHO WWTP and its related discharge. The docket holder's Application requested approval to expand the WWTP to 10.7 mgd, but due to changes in the region the expansion plans never came to fruition and therefore this docket requires the docket holder to re-apply to the Commission in the future if substantial alterations or additions are proposed prior to final design (See DECISION Condition II.v.).

In 1992, the DRBC adopted SPW requirements, as part of the DRBC *WQR*, designed to protect existing high water quality in applicable areas of the Delaware River Basin. One hundred twenty miles of the Delaware River from Hancock, New York downstream to the Delaware Water Gap has been classified by the DRBC as SPW. This stretch includes the sections of the river federally designated as "Wild and Scenic" in 1978 -- the Upper Delaware Scenic and Recreational River and the Delaware Water Gap National Recreation Area -- as well as an eight-mile reach between Milrift and Milford, Pennsylvania which is not federally designated. The SPW regulations apply to this 120-mile stretch of the river and its drainage area.

On July 16, 2008, the DRBC approved amendments to its *WQR* that provide increased protection for waters that the Commission classifies as SPW. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for SPW designation and clarity on definitions and terms were updated for the entire program.

In 2009, Commission staff developed the first iteration of the Neversink River Water Quality Model (NR-WQM), which was created to ensure that existing water quality (EWQ) for the year 1992 at the Neversink River boundary control point (BCP) was protected. At that time two of the docket holder's WWTPs (Loch Sheldrake and WHO) had applications in-house for possible expansions. Commission staff have been in communication with CDM for several years discussing possible expansions and modifications to the WWTP. The multiple variations for expansion and modification included use of the evolving NR-WQM that has been updated annually. Commission staff worked with CDM to establish the grandfathered loads and their associated flow for both the Loch Sheldrake and WHO WWTPs and provided CDM with draft effluent limitations for multiple expansion scenarios at both WWTPs. The WHO WWTP's grandfathered loads are located in Table B-1 below. Since the docket holder is not performing substantial alterations or additions at this time, effluent limitations will not be changing. However equal effluent concentrations will be used in the future should substantial alterations or

additions be proposed for the incremental flow between that which is associated with the grandfathered loads and the requested flow.

Table B-1: WHO WWTP's Grandfathered Loads

Months	BOD ₅ (lbs/day)	TSS (lbs/day)	Total P (lbs/day)	Nitrate + Nitrite as N (lbs/day)	TKN as N (lbs/day)	Ammonia – as N (lbs/day)
May-Sept*	199.36	246.62	54.77	334.21	103.17	58.38
Oct-April**	134.80	158.06	30.37	189.82	75.32	33.07

* Grandfathered Loads are associated with a flow of 2.1 mgd

** Grandfathered Loads are associated with a flow of 1.34 mgd

Article 3.10.3A.2.e.1). and 2). of the Commission's *WQR* states that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of SPW must submit for approval a Non-Point Source Pollution Control Plan (NPSPCP) that controls the new or increased non-point source loads generated within the portion of the docket holder's service area which is also located within the drainage area of SPW. The service area of the docket holder is located within in the drainage area to the SPW. Since this project does not entail additional construction and expansion of facilities/service area (i.e., there aren't any new or increased non-point source loads associated with this approval), the NPSPCP requirement is not applicable at this time. Accordingly, DECISION Condition II.n. has been included in this docket.

Near the project site, the Neversink River has an estimated seven-day low flow with a recurrence interval of ten years of 11.4 mgd (17.6 cfs). The ratio of this low flow to the hydraulic design capacity from the 3.26 mgd WHO WWTP is 3.5 to 1.

The nearest surface water intake of record for public water supply downstream of the project discharge is operated by the City of Easton, approximately 97 river miles away.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

The limits in the SPDES Permit are in compliance with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge meeting the effluent requirements as set forth in the Commission's *WQR*.

C. DECISION

I. Effective on the approval date for Docket No. D-1994-059 CP-2 below:

a. The projects described in Dockets Nos. D-67-69 CP, D-85-76 CP, and D-94-59 CP are removed from the Comprehensive Plan to the extent that they are not included in Docket No. D-1994-059 CP-2; and

b. Dockets Nos. D-67-69 CP, D-85-76 CP, and D-94-59 CP are terminated and replaced by Docket No. D-1994-059 CP-2; and

c. The project and the appurtenant facilities described in Section A “Physical Features” of this docket shall be added to the Comprehensive Plan.

II. The project and appurtenant facilities as described in Section A “Physical Features” of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the NYSDEC in its SPDES Permit, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

b. The facility and operational records shall be available at all times for inspection by the DRBC.

c. The facility shall be operated at all times to comply with the requirements of the Commission’s *WQR*.

d. The docket holder shall comply with the requirements contained in the Effluent Table in Section A.4.d. of this docket. The docket holder shall submit the required monitoring results directly to the DRBC Project Review Section. The monitoring results shall be submitted annually, absent any observed limit violations, by January 31. If a DRBC effluent limit is violated, the docket holder shall submit the result(s) to the DRBC within 30 days of the violation(s) and provide a written explanation that states the action(s) the docket holder has taken to correct the violation(s) and protect against any future violations.

e. Except as otherwise authorized by this docket, if the docket holder seeks relief from any limitation based upon a DRBC water quality standard or minimum treatment requirement, the docket holder shall apply for approval from the Executive Director or for a docket revision in accordance with Section 3.8 of the *Compact* and the *Rules of Practice and Procedure*.

f. If at any time the receiving treatment plant proves unable to produce an effluent that is consistent with the requirements of this docket approval, no further connections shall be permitted until the deficiency is remedied.

g. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

h. The discharge of wastewater shall not increase the ambient temperatures of the receiving waters by more than 5°F until stream temperatures reach 50°F, nor by more than

2°F when stream temperatures are between 50°F and 58°F, nor shall such discharge result in stream temperatures exceeding 58°F.

i. The docket holder is permitted to treat and discharge wastewaters as set forth in the Area Served Section of this docket to the extent consistent with all other conditions of this DECISION Section.

j. The docket holder shall make wastewater discharge in such a manner as to avoid injury or damage to fish or wildlife and shall avoid any injury to public or private property.

k. No sewer service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).

l. Nothing in this docket approval shall be construed as limiting the authority of DRBC to adopt and apply charges or other fees to this discharge or project.

m. The issuance of this docket approval shall not create any private or proprietary rights in the waters of the Basin, and the Commission reserves the right to amend, suspend or rescind the docket for cause, in order to ensure proper control, use and management of the water resources of the Basin.

n. Prior to allowing connections from any new service areas or any new developments, the docket holder shall either submit and have approved by the Executive Director of the DRBC a NPSPCP in accordance with Section 3.10.3.A.2.e, or receive written confirmation from the Executive Director of the DRBC that the new service area is in compliance with a DRBC approved NPSPCP.

o. The docket holder shall install remote alarm controls and prepare an emergency management plan (EMP) within six (6) months of docket approval. The docket holder shall submit the EMP and certify in writing to the Commission that it has complied with this condition by June 5, 2013.

p. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

q. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

r. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the Rules of Practice and Procedure. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

s. The docket holder may request of the Executive Director in writing the substitution of specific conductance for TDS. The request should include information that supports the effluent specific correlation between TDS and specific conductance. Upon review, the Executive Director may modify the docket to allow the substitution of specific conductance for TDS monitoring.

t. Nothing in this docket constitutes a defense to any penalty action for past conduct of the docket holder or ongoing activity not authorized by this approval. In particular, renewal of this docket does not resolve violations – whether in the past or continuing – of provisions of the Delaware River Basin Compact (“Compact”) or any rule, regulation, order or approval duly issued by the Commission or the Executive Director pursuant to the Compact. The Commission reserves its right to take appropriate enforcement action against the docket holder, including but not limited to recovery of financial penalties consistent with Section 14.17 of the Compact, for any and all such prior or continuing violations.

u. The docket holder is prohibited from treating/pre-treating any hydraulic fracturing wastewater from sources in or out of the Basin at this time. Should the docket holder wish to treat/pre-treat hydraulic fracturing wastewater in the future, the docket holder will need to first apply to the Commission to renew this docket and be issued a revised docket allowing such treatment and an expanded service area. Failure to obtain this approval prior to treatment/pre-treatment will result in action by the Commission.

v. Prior to the docket holder performing any substantial alterations or additions to the existing WWTP as defined in Section 3.10.3A2.a.16) of the Commission's *WQR*, an application must be submitted and approved by the Commission. Such an application should be submitted prior to final design to ensure that the Commission can provide the docket holder with draft effluent limitations for SPW specific parameters as guidance for design as to not require duplication of work or cause a substantial expenditure of public funds without Commission approval.

BY THE COMMISSION

DATE APPROVED:

EXPIRATION DATE: October 31, 2018